

# PATENT COOPERATION TREATY

PCT

## NOTIFICATION OF ELECTION

(PCT Rule 61.2)

From the INTERNATIONAL BUREAU

To:

Commissioner  
US Department of Commerce  
United States Patent and Trademark  
Office, PCT  
2011 South Clark Place Room  
CP2/5C24  
Arlington, VA 22202  
ETATS-UNIS D'AMERIQUE  
in its capacity as elected Office

Date of mailing (day/month/year)  
02 November 2000 (02.11.00)

International application No.  
PCT/AU00/00270

Applicant's or agent's file reference  
2269152/EJH

International filing date (day/month/year)  
31 March 2000 (31.03.00)

Priority date (day/month/year)  
01 April 1999 (01.04.99)

Applicant

HU, Guorang

1. The designated Office is hereby notified of its election made:

☒ in the demand filed with the International Preliminary Examining Authority on:  
18 October 2000 (18.10.00)

☐ in a notice effecting later election filed with the International Bureau on:

2. The election ☒ was  
☐ was not

made before the expiration of 19 months from the priority date or, where Rule 32 applies, within the time limit under Rule 32.2(b).

The International Bureau of WIPO  
34, chemin des Colombettes  
1211 Geneva 20, Switzerland

Authorized officer

F. Baechler

Facsimile No.: (41-22) 740.14.35

Telephone No.: (41-22) 338.83.38

## PCT REQUEST

1/3

2269152/EJH

Original (for SUBMISSION) - printed on 31.03.2000 11:33:00 AM

0	<b>For receiving Office use only</b>	
0-1	International Application No.	
0-2	International Filing Date	
0-3	Name of receiving Office and "PCT International Application"	
0-4	<b>Form - PCT/RO/101 PCT Request</b>	
0-4-1	Prepared using	PCT-EASY Version 2.90 (updated 08.03.2000)
0-5	<b>Petition</b> The undersigned requests that the present international application be processed according to the Patent Cooperation Treaty	
0-6	<b>Receiving Office (specified by the applicant)</b>	Australian Patent Office (RO/AU)
0-7	<b>Applicant's or agent's file reference</b>	2269152/EJH
I	<b>Title of invention</b>	COMPOSITION AND USES THEREFOR
II	<b>Applicant</b>	
II-1	This person is:	applicant and inventor
II-2	Applicant for	all designated States
II-4	Name (LAST, First)	HU, Guorang
II-5	Address:	9 Victory Street Fairfield, New South Wales 2165 Australia
II-6	State of nationality	AU
II-7	State of residence	AU
II-8	Telephone No.	+61-2-9767 5000
II-9	Facsimile No.	+61-2-9767 8315
IV-1	<b>Agent or common representative; or address for correspondence</b> The person identified below is hereby/has been appointed to act on behalf of the applicant(s) before the competent International Authorities as:	agent
IV-1-1	Name (LAST, First)	HUGHES, E, John, L
IV-1-2	Address:	DAVIES COLLISON CAVE Level 3 303 Coronation Drive Milton, Queensland 4064 Australia
IV-1-3	Telephone No.	+61-7-3368 2255
IV-1-4	Facsimile No.	+61-7-3368 2262
IV-1-5	e-mail	mail@davies.com.au
IV-2	<b>Additional agent(s)</b>	additional agent(s) with same address as first named agent
IV-2-1	Name(s)	SLATTERY, John, M; CAINE, Michael, J

## PCT REQUEST

2/3

Original (for SUBMISSION) - printed on 31.03.2000 11:33:00 AM

2269152/EJH

V	<b>Designation of States</b>	
V-1	Regional Patent (other kinds of protection or treatment, if any, are specified between parentheses after the designation(s) concerned)	<p>AP: GH GM KE LS MW SD SL SZ TZ UG ZW and any other State which is a Contracting State of the Harare Protocol and of the PCT</p> <p>EA: AM AZ BY KG KZ MD RU TJ TM and any other State which is a Contracting State of the Eurasian Patent Convention and of the PCT</p> <p>EP: AT BE CH&amp;LI CY DE DK ES FI FR GB GR IE IT LU MC NL PT SE and any other State which is a Contracting State of the European Patent Convention and of the PCT</p> <p>OA: BF BJ CF CG CI CM GA GN GW ML MR NE SN TD TG and any other State which is a member State of OAPI and a Contracting State of the PCT</p>
V-2	National Patent (other kinds of protection or treatment, if any, are specified between parentheses after the designation(s) concerned)	<p>AE AG AL AM AT AU AZ BA BB BG BR BY CA CH&amp;LI CN CR CU CZ DE DK DM DZ EE ES FI GB GD GE GH GM HR HU ID IL IN IS JP KE KG KP KR KZ LC LK LR LS LT LU LV MA MD MG MK MN MW MX NO NZ PL PT RO RU SD SE SG SI SK SL TJ TM TR TT TZ UA UG US UZ VN YU ZA ZW</p>
V-5	<b>Precautionary Designation Statement</b> In addition to the designations made under items V-1, V-2 and V-3, the applicant also makes under Rule 4.9(b) all designations which would be permitted under the PCT except any designation(s) of the State(s) indicated under item V-6 below. The applicant declares that those additional designations are subject to confirmation and that any designation which is not confirmed before the expiration of 15 months from the priority date is to be regarded as withdrawn by the applicant at the expiration of that time limit.	
V-6	<b>Exclusion(s) from precautionary designations</b>	NONE
VI-1	<b>Priority claim of earlier national application</b>	
VI-1-1	Filing date	01 April 1999 (01.04.1999)
VI-1-2	Number	PP9587
VI-1-3	Country	AU
VI-2	<b>Priority claim of earlier national application</b>	
VI-2-1	Filing date	23 June 1999 (23.06.1999)
VI-2-2	Number	PQ1147
VI-2-3	Country	AU

## PCT REQUEST

2269152/EJH

Original (for SUBMISSION) - printed on 31.03.2000 11:33:00 AM

VI-3	<b>Priority document request</b> The receiving Office is requested to prepare and transmit to the International Bureau a certified copy of the earlier application(s) identified above as item(s):	VI-1, VI-2	
VII-1	<b>International Searching Authority Chosen</b>	Australian Patent Office (ISA/AU)	
VIII	<b>Check list</b>	number of sheets	electronic file(s) attached
VIII-1	Request	3	-
VIII-2	Description	32	-
VIII-3	Claims	4	-
VIII-4	Abstract	1	abstract.txt
VIII-5	Drawings	14	-
VIII-7	TOTAL	54	
	<b>Accompanying items</b>	paper document(s) attached	electronic file(s) attached
VIII-8	Fee calculation sheet	✓	-
VIII-16	PCT-EASY diskette	-	diskette
VIII-18	Figure of the drawings which should accompany the abstract		
VIII-19	Language of filing of the international application	English	
IX-1	Signature of applicant or agent	<i>John Lee</i>	
IX-1-1	Name (LAST, First)	HUGHES, E, John, L	

## FOR RECEIVING OFFICE USE ONLY

10-1	Date of actual receipt of the purported international application	
10-2	Drawings:	
10-2-1	Received	
10-2-2	Not received	
10-3	Corrected date of actual receipt due to later but timely received papers or drawings completing the purported international application	
10-4	Date of timely receipt of the required corrections under PCT Article 11(2)	
10-5	International Searching Authority	ISA/AU
10-6	Transmittal of search copy delayed until search fee is paid	

## FOR INTERNATIONAL BUREAU USE ONLY

11-1	Date of receipt of the record copy by the International Bureau	
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The demand must be filed directly with the competent International Preliminary Examining Authority or, if two or more Authorities are competent, with the one chosen by the applicant. The one or two-letter code of that Authority may be indicated by the applicant on the line below.

EA/ \_\_\_\_\_

**PCT**

**CHAPTER II**

**DEMAND**

Under Article 31 of the Patent Cooperation Treaty:  
The Undersigned requests that the international application specified below be the subject of international preliminary examination according to the Patent Cooperation Treaty and hereby elects all eligible States (except where otherwise indicated).

For International Preliminary Examining Authority use only

Identification of IPEA		Date of receipt of DEMAND	
<b>Box No. 1 IDENTIFICATION OF THE INTERNATIONAL APPLICATION</b>		Applicant's or agent's file reference 2269152/EJH	
International application No.  PCT/AU00/00270	International filing date (day/month/year) 31 March 2000 (31-03-2000)	(Earliest) Priority date (day/month/year) 1 April 1999 (01-04-1999)	
Title of invention Composition and uses therefor			
<b>Box No. II APPLICANT(S)</b>			
Name and address: (Family name followed by given name: for a legal entity, full official designation. The address must include postal code and name of country.)  HU, Guorang 9 Victory Street Fairfield New South Wales 2165 Australia		Telephone No.: +61-2-9767 5000	
		Facsimile No.: +61-2-9767 8315	
		Email:.	
State (that is, country) of nationality: Australia		State (that is, country) of residence: Australia	
Name and address: (Family name followed by given name: for a legal entity, full official designation. The address must include postal code and name of country.)			
State (that is, country) of nationality:		State (that is, country) of residence:	
Name and address: (Family name followed by given name: for a legal entity, full official designation. The address must include postal code and name of country.)			
State (that is, country) of nationality:		State (that is, country) of residence:	
<input type="checkbox"/> Further applicants are indicated on a continuation sheet.			

**Box No. III AGENT OR COMMON REPRESENTATIVE: OR ADDRESS FOR CORRESPONDENCE**

The following person is ☒ agent ☐ common representative  
 and ☒ has been appointed earlier and represents the applicant(s) also for international preliminary examination.  
☐ is hereby appointed and any earlier appointment of (an) agent(s)/common representative is hereby revoked.  
☐ is hereby appointed, specifically for the procedure before the International Preliminary Examining Authority, in addition to the agent(s)/common representative appointed earlier.

Name and address: *(Family name followed by given name: for a legal entity, full official designation.  
The address must include postal code and name of country.)*

HUGHES, E John L  
 SLATTERY, John M  
 CAINE, Michael J

DAVIES COLLISON CAVE  
 Level 3  
 303 Coronation Drive  
 Milton, Queensland, 4064  
 Australia

Telephone No.:  
 +61-7-3368 2255

Facsimile No.:  
 +61-7-3368 2262

Email:  
 mail@davies.com.au

☐ **Address for correspondence:** Mark this check-box where no agent or common representative is/has been appointed and the space above is used instead to indicate a special address to which correspondence should be sent.

**Box No. IV BASIS FOR INTERNATIONAL PRELIMINARY EXAMINATION****Statement concerning amendments:\***

1. The applicant wishes the international preliminary examination to start on the basis of:

- ☒ the international application as originally filed
- the description ☐ as originally filed  
☐ as amended under Article 34
- the claims ☐ as originally filed  
☐ as amended under Article 19 (together with any accompanying statement)  
☐ as amended under Article 34
- the drawings ☐ as originally filed  
☐ as amended under Article 34

2. ☐ The applicant wishes any amendment to the claims under Article 19 to be considered as reversed.

3. ☐ The applicant wishes the start of the international preliminary examination to be postponed until the expiration of 20 months from the priority date unless the International Preliminary Examining Authority receives a copy of any amendments made under Article 19 or a notice from the applicant that he does not wish to make such amendments (Rule 69. 1(d)). *This check-box may be marked only where the time limit under Article 19 has not yet expired.)*

- Where no check-box is marked, international preliminary examination will start on the basis of the international application as originally filed or, where a copy of amendments to the claims under Article 19 and/or amendments of the international application under Article 34 are received by the International Preliminary Examining Authority before it has begun to draw up a written opinion or the international preliminary examination report, as so amended.

**Language for the purposes of international preliminary examination: English**

- ☒ which is the language in which the international application was filed.  
☐ which is the language of a translation furnished for the purposes of international search.  
☐ which is the language of publication of the international application.  
☐ which is the language of the translation (to be) furnished for the purposes of international preliminary examination.

**Box No. V ELECTION OF STATES**

The applicant hereby elects all eligible States *(that is, all States which have been designated and which are bound by Chapter II of the PCT)*

Excluding the following States which the applicant wishes not to elect:

**Box No. VI CHECK LIST**

The demand is accompanied by the following elements, in the language referred to in Box No. IV, for the purposes of international preliminary examination:

- |    |   |   |        |
|----|---|---|--------|
| 1. | translation of international application                              | : | sheets |
| 2. | amendments under Article 34   | : | sheets |
| 3. | copy (or, where required, translation) of amendments under Article 19 | : | sheets |
| 4. | copy (or, where required, translation) of statement under Article 19  | : | sheets |
| 5. | letter  | : | sheets |
| 6. | other ( <i>specify</i> )  | : | sheets |

For International Preliminary  
Examining Authority use only

received      not received

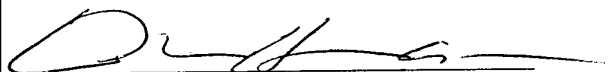
<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>

The demand is also accompanied by the item(s) marked below:

- |  |   |
|--|---|
| 1. <input type="checkbox"/> fee calculation sheet  | 4. <input type="checkbox"/> statement explaining lack of signature                                  |
| 2. <input type="checkbox"/> separate signed power of attorney                            | 5. <input type="checkbox"/> nucleotide and or amino acid sequence listing in computer readable form |
| 3. <input type="checkbox"/> copy of general power of attorney: reference number, if any: | 6. <input type="checkbox"/> other ( <i>specify</i> ):   |

**Box No. VII SIGNATURE OF APPLICANT, AGENT OR COMMON REPRESENTATIVE**

*Next to each signature, indicate the name of the person signing and the capacity in which the person signs (if such capacity is not obvious from reading the demand).*



HUGHES, E John L  
For and on behalf of the Applicant

For International Preliminary Examining Authority use only

1. Date of actual receipt of DEMAND:

2. Adjusted date of receipt of demand due to CORRECTIONS under Rule 60.1(b):

3. ☐ The date of receipt of the demand is AFTER the expiration of 19 months from the priority date and item 4 or 5, below, does not apply.

☐ The applicant has been informed accordingly.

4. ☐ The date of receipt of the demand is WITHIN the period of 19 months from the priority dated as extended by virtue of Rule 80.5.

5. ☐ Although the date of receipt of the demand is after the expiration of 19 months from the priority dated, the delay in arrival is EXCUSED pursuant to Rule 82.

For International Bureau use only

Demand received from IPEA on:

# PCT COOPERATION TREATY

PCT

## NOTICE INFORMING THE APPLICANT OF THE COMMUNICATION OF THE INTERNATIONAL APPLICATION TO THE DESIGNATED OFFICES

(PCT Rule 47.1(c), first sentence)

From the INTERNATIONAL BUREAU

To:  
HUGHES, E., John, L.  
Davies Collison Cave  
Level 3  
303 Coronation Drive  
Milton, QLD 4064  
AUSTRALIE

# BRISBANE

THURSDAY 26 OCT 2000

Date of mailing (day/month/year) 12 October 2000 (12.10.00)		
Applicant's or agent's file reference 2269152/EJH		IMPORTANT NOTICE
International application No. PCT/AU00/00270	International filing date (day/month/year) 31 March 2000 (31.03.00)	Priority date (day/month/year) 01 April 1999 (01.04.99)
Applicant HU, Guorang		

- Notice is hereby given that the International Bureau has communicated, as provided in Article 20, the international application to the following designated Offices on the date indicated above as the date of mailing of this Notice:  
AG,AU,DZ,KP,KR,US

In accordance with Rule 47.1(c), third sentence, those Offices will accept the present Notice as conclusive evidence that the communication of the international application has duly taken place on the date of mailing indicated above and no copy of the international application is required to be furnished by the applicant to the designated Office(s).

- The following designated Offices have waived the requirement for such a communication at this time:  
AE,AL,AM,AP,AT,AZ,BA,BB,BG,BR,BY,CA,CH,CN,CR,CU,CZ,DE,DK,DM,EA,EE,EP,ES,FI,GB,GD,GE,GH,GM,HR,HU,ID,IL,IN,IS,JP,KE,KG,KZ,LC,LK,LR,LS,LT,LU,LV,MA,MD,MG,MK,MN,MW,MX,NO,NZ,OA,PL,PT,RO,RU,SD,SE,SG,SI,SK,SL,TJ,TM,TR,TT,TZ,UA,UG,UZ,VN,YU,ZA,ZW  
The communication will be made to those Offices only upon their request. Furthermore, those Offices do not require the applicant to furnish a copy of the international application (Rule 49.1(a-bis)).
- Enclosed with this Notice is a copy of the international application as published by the International Bureau on 12 October 2000 (12.10.00) under No. WO 00/59520

### REMINDER REGARDING CHAPTER II (Article 31(2)(a) and Rule 54.2)

If the applicant wishes to postpone entry into the national phase until 30 months (or later in some Offices) from the priority date, a **demand for international preliminary examination** must be filed with the competent International Preliminary Examining Authority before the expiration of 19 months from the priority date.

It is the applicant's sole responsibility to monitor the 19-month time limit.

Note that only an applicant who is a national or resident of a PCT Contracting State which is bound by Chapter II has the right to file a demand for international preliminary examination.

### REMINDER REGARDING ENTRY INTO THE NATIONAL PHASE (Article 22 or 39(1))

If the applicant wishes to proceed with the international application in the **national phase**, he must, within 20 months or 30 months, or later in some Offices, perform the acts referred to therein before each designated or elected Office.

For further important information on the time limits and acts to be performed for entering the national phase, see the Annex to Form PCT/IB/301 (Notification of Receipt of Record Copy) and Volume II of the PCT Applicant's Guide.

The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland	Authorized officer  J. Zahra
Facsimile No. (41-22) 740.14.35	Telephone No. (41-22) 338.83.38



# BRISBANE PATENT COOPERATION TREATY

From the **THURSDAY 26 OCT 2000**  
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

## PCT

To: Agent :

DAVIES COLLISON CAVE  
PO Box 2219  
Milton Business Centre Qld  
4064

### NOTIFICATION OF RECEIPT OF DEMAND BY COMPETENT INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

(PCT Rule 59.3(e) and 61.1(b), first sentence  
and Administrative Instructions, Section 601(a))

Date of mailing 24 OCT 2000  
(day/month/year) (24/10/00)

Applicant's or agent's file reference  
2269152/

ESH.

### IMPORTANT NOTIFICATION

International application No.  
PCT/AU00/00270

International filing date (day/month/year)  
31 MAR 2000 (31/3/00)

Priority date (day/month/year)  
1 APR 1999 (1/4/99)

Applicant

Hu; Guorang

1. The applicant is hereby **notified** that this International Preliminary Examining Authority considers the following date as the date of receipt of the demand for international preliminary examination of the international application:

18 OCT 2000 (18/10/00)

2. That date of receipt is:



the actual date of receipt of the demand by this Authority (Rule 61.1(b)).



the actual date of receipt of the demand on behalf of this Authority (Rule 59.3(e)).



the date on which this Authority has, in response to the Invitation to correct defects in the demand (Form PCT/IPEA/404), received the required corrections.

3. ☐ **Attention:** That date of receipt is **AFTER** the expiration of 19 months from the priority date. Consequently, the elections(s) made in the demand does (do) not have the effect of postponing the entry into the national phase until 30 months from the priority date (or later in some Offices) (Article 39(1)). Therefore, the acts for entry into the national phase must be performed within 20 months from the priority date (or later in some Offices) (Article 22). For details, see the *PCT Applicant's Guide, Volume II*.



(If applicable) This notification confirms the information given by telephone, facsimile transmission or in person on:

4. Only where paragraph 3 applies, a copy of this notification has been sent to the International Bureau.

Name and mailing address of the IPEA/AU  
**AUSTRALIAN PATENT OFFICE**  
**PO BOX 200, WODEN ACT 2606, AUSTRALIA**  
E-mail: pct@ipaaustralia.gov.au  
Facsimile No. 02 6285 3929

Authorized officer

JOSEPH BRESIC  
02 6283 2357

Telephone No.

**PATENT COOPERATION TREATY**  
**PCT**  
**INTERNATIONAL PRELIMINARY EXAMINATION REPORT**  
(PCT Article 36 and Rule 70)

REC'D 05 JUL 2001  
WIPO  
PCT

Applicant's or agent's file reference 2269152/EGH/aal	<b>FOR FURTHER ACTION</b>	See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416).
International Application No. <b>PCT/AU00/00270</b>	International Filing Date (day/month/year) 31 March 2000	Priority Date (day/month/year) 1 April 1999
International Patent Classification (IPC) or national classification and IPC Int. Cl. <sup>7</sup> A61K 35/78, A61P 11/06, 17/00, 27/00, 37/08		
Applicant HU, Guorang		

1.	This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2.	This REPORT consists of a total of 6 sheets, including this cover sheet. <input type="checkbox"/> This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).  These annexes consist of a total of sheet(s).
3.	This report contains indications relating to the following items:  I <input checked="" type="checkbox"/> Basis of the report II <input type="checkbox"/> Priority III <input checked="" type="checkbox"/> Non-establishment of opinion with regard to novelty, inventive step and industrial applicability IV <input type="checkbox"/> Lack of unity of invention V <input checked="" type="checkbox"/> Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement VI <input type="checkbox"/> Certain documents cited VII <input type="checkbox"/> Certain defects in the international application VIII <input checked="" type="checkbox"/> Certain observations on the international application

Date of submission of the demand 18 October 2000	Date of completion of the report 14 June 2001
Name and mailing address of the IPEA/AU AUSTRALIAN PATENT OFFICE PO BOX 200, WODEN ACT 2606, AUSTRALIA E-mail address: pct@ipaustalia.gov.au Facsimile No. (02) 6285 3929	Authorized Officer  <b>TAMARA NIZNIK</b> Telephone No. (02) 6283 2422

**I. Basis of the report**

1. With regard to the **elements** of the international application:\*
- ☒ the international application as originally filed.
- ☐ the description,      pages , as originally filed,  
   pages , filed with the demand,  
   pages , received on      with the letter of
- ☐ the claims,      pages , as originally filed,  
   pages , as amended (together with any statement) under Article 19,  
   pages , filed with the demand,  
   pages , received on      with the letter of
- ☐ the drawings,      pages , as originally filed,  
   pages , filed with the demand,  
   pages , received on      with the letter of
- ☐ the sequence listing part of the description:  
   pages , as originally filed  
   pages , filed with the demand  
   pages , received on      with the letter of
2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.  
These elements were available or furnished to this Authority in the following language which is:
- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).
3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, was on the basis of the sequence listing:
- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished
4. ☐ The amendments have resulted in the cancellation of:
- ☐ the description,      pages
- ☐ the claims,      Nos.
- ☐ the drawings,      sheets/fig.
5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).\*\*

\* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17).

\*\* Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report

**III. Non-establishment of opinion with regard to novelty, inventive step and industrial applicability**

1. The questions whether the claimed invention appears to be novel, to involve an inventive step (to be nonobvious), or to be industrially applicable have not been examined in respect of:

☐ the entire international application,

☒ claims Nos: **2-3, 8-9**

because:

☐ the said international application, or the said claims Nos. relate to the following subject matter which does not require an international preliminary examination (*specify*):

☐ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. are so unclear that no meaningful opinion could be formed (*specify*):

☐ the claims, or said claims Nos. are so inadequately supported by the description that no meaningful opinion could be formed.

☒ no international search report has been established for said claim Nos. **1-3, 7-9**

2. A meaningful international preliminary examination cannot be carried out due to the failure of the nucleotide and/or amino acid sequence listing to comply with the standard provided for in Annex C of the Administrative Instructions:

☐ the written form has not been furnished or does not comply with the standard.

☐ the computer readable form has not been furnished or does not comply with the standard.

**V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

**1. Statement**

Novelty (N)	Claims 4-6, 10-13	YES
	Claims 1, 7	NO
Inventive step (IS)	Claims 4-6	YES
	Claims 1, 7, 10-13	NO
Industrial applicability (IA)	Claims 1-13	YES
	Claims	NO

**2. Citations and explanations (Rule 70.7)**

The following document has been identified in the International Search Report have been considered for the purposes of this report:

Journal of Traditional Chinese Medicine 2(2):1982,135-140,

Novelty (N)

Claims 1, 7

The composition defined by claim 1 lacks novelty in the light of the document and common general knowledge as within its scope includes common place items such as a herbal infusion. The words "in the prophylaxis or treatment of an allergic or inflammatory response" are only descriptive and place no limitation upon the scope of the claim.

The method defined by claim 7 lacks novelty in the light of the document as it discloses the use of Chinese herbs for the treatment of asthma.

Furthermore within the scope of claim 7 includes such common general knowledge remedies in the art such as Echinacea or Aloe Vera preparations for the treatment of inflammation.

Claims 4-6, 10-13

The compositions defined by claims 4-6 and the methods defined by claims 10-13 are not discussed in the document..

Inventive Step (IS)

Claims 1, 7

As above

Claims 10-13

The methods defined by claims 10-13 do not involve an inventive step when compared with the document because various Chinese herbs have been used to treat respiratory disorders.

The citation is directed to a problem similar to the applicant's problem, and in searching the problem a person skilled in the art could reasonably be expected to have found, and to have ascertained, understood, and regarded, this prior art as relevant.

Therefore a person skilled in the art would directly and without difficulty by routine steps, arrive at a solution which is the same as the claimed solution, and therefore the claimed invention lacks an inventive step.

**VIII. Certain observations on the international application**

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

Claims 2-3, 8 lack clarity because it is not clear as to the meaning of "the composition is relative to a placebo-controlled trial".

Furthermore descriptive phrases place no limitation upon the scope of a composition claim.

**Supplemental Box**

(To be used when the space in any of the preceding boxes is not sufficient)

**Continuation of I**

Rule 67 lists the subject matter which under Article 34(4)(a)(i) an international preliminary examination is not required to be carried out. At item (iv) it specifies methods for treatment of the human or animal body by surgery or therapy, as well as diagnostic methods, as such matter. However the agreement between WIPO and Australia further qualifies this by excepting from exclusion any subject matter which is examined under national grant procedures. Claims 7-12 have nonetheless been considered because the identified subject matter does not contravene Australian law.